

Message Text

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ORIGIN EUR-12

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DRAFTED BY DSAA:RHAMMOND
APPROVED BY EUR/EX:MLISSFELT
EUR/WE:AHUGHES
L/PM:TBOREK
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TO AMEMBASSY MADRID PRIORITY
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E.O. 11652: N/A

TAGS: MASS, SP, US

SUBJECT: TERRITORIAL COMMAND NET (TCN) FOR SPAIN

REFS: (A) MADRID 6735 (151224Z JUNE 78);
(B) DA 092120Z JUNE 78; (C) MADRID 7084 (231455Z JUNE 78)
(D) JUSMG MAAG MADRID 291352Z JUNE 78

1. REF A MODIFIED BY REF C REQUESTED INSTRUCTIONS WITH
RESPECT TO REQUEST FOR PAYMENT AND PROPOSAL FOR THE SPANISH
TEAM VISIT TO U.S.

2. REQUEST FOR PAYMENT.

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A. WE UNDERSTAND THAT PAYMENT 12 (\$2.3 MILLION) IS TO BE
MADE BY THE EXPORT IMPORT BANK, THAT THE BANK APPROVED THE
EXTENSION OF ITS LOAN AGREEMENT WITH THE GOS IN ORDER TO
DO SO, AND THAT THE BANK NEEDS FORMAL ACCEPTANCE BY THE GOS
OF THE EXTENSION BEFORE THE BANK CAN DISBURSE THE \$2.3
MILLION. ACCORDINGLY, THE GOS SHOULD BE URGED TO HAVE ITS
REPRESENTATIVE PROVIDE EXIM THE ACCEPTANCE REQUIRED.

B. THE GOS QUESTIONED WHY IT CANNOT BE CREDITED FOR THE HALF OF PAYMENT DEPOSITED WITH EXIM IN MARCH. PLACING

MONEY WITH EXIM DOES NOT MAKE FUNDS AVAILABLE FOR DISBURSEMENT BY DOD. IF THE GOS WISHES TO RECEIVE CREDIT FOR A PAYMENT, THE FUNDS MUST BE DEPOSITED INTO THE FMS TRUST FUND MANAGED BY DOD.

C. WITH RESPECT TO PAYMENT 13, WE WELCOME THE SPANISH AGREEMENT IN PRINCIPLE TO PROCEED WITH PAYMENT (REF D). YOU SHOULD REPLY TO THE GOS THAT THE USG REQUESTS A PROGRESS PAYMENT UNDER THE TERMS AND CONDITIONS OF FMS CASE UKJ IN THE AMOUNT OF \$2.9 MILLION BASED ON THE EXTENT OF COMPLETION TO DATE OF THE TERRITORIAL COMMAND NET. THE USG ACCEPTS THE STATEMENT OF THE SPANISH ARMY THAT THIS PAYMENT DOES NOT CONSTITUTE TECHNICAL ACCEPTANCE BY IT OF THE TERRITORIAL COMMAND NET, OR AN ACCEPTANCE OF THE RESPONSIBILITY TO PAY THE ADDITIONAL FINANCIAL CLAIMS PRESENTED BY THE US ARMY.

D. (FYI: WE BELIEVE THAT "ACCEPTANCE OF THE RESPONSIBILITY TO PAY" IS MORE ACCURATE THAN "ACKNOWLEDGEMENT" WITH RESPECT TO THE FINANCIAL CLAIMS AND THAT ACCURACY IS IMPORTANT TO AVOID POSSIBLE MISUNDERSTANDING AS WE SEEK TO RESOLVE THIS COMPLEX CLAIMS ISSUE. THE TERMS OF THE CON-

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TRACT DO NOT PROVIDE THE BASIS FOR THE U.S. ARMY TO "GUARANTEE THAT THE CONTRACTOR WILL CONTINUE HIS WORK UNTIL SUCH TIME AS THE SPANISH ARMY CONSIDERS THAT THE TECHNICAL DEFICIENCIES OF THE TERRITORIAL COMMAND NET HAVE BEEN CORRECTED." THE U.S. ARMY WILL CONTINUE TO MAKE EVERY EFFORT TO HAVE ITS CONTRACTOR CORRECT REMAINING DEFICIENCIES IN THE SYSTEM. PAYMENT 13 SHOULD ASSIST IN INDUCING THE CONTRACTOR TO STAY ON THE JOB. THE U.S. POSITION SHOULD CONTINUE TO BE THAT THE TERRITORIAL COMMAND NET IS BEING PROVIDED UNDER THE TERMS AND CONDITIONS OF FMS CASE UKJ. THIS IS A GOVERNMENT-TO-GOVERNMENT CONTRACT AND THE TERMS AND CONDITIONS GOVERNING THIS FMS CASE UKJ ARE PRECISELY THE SAME AS THOSE FOR ANY FMS CASE. END FYI).

3. SPANISH TEAM VISIT.

A. REF B FORWARDED CSA LETTER FOR DELIVERY TO GENERAL GALARZA AGREEING THAT A COMMITTEE FROM THE SPANISH ARMY SHOULD TRAVEL TO THE U.S. TO EXPLAIN THE SPANISH POINT OF VIEW ON TCN AND RECOMMENDING NOTICE OF AT LEAST A MONTH PRIOR TO THE COMMITTEE'S ARRIVAL DATE.

B. ARRIVAL DURING THE LAST WEEK IN JULY, THE FIRST WEEK IN AUGUST, OR MID SEPTEMBER WOULD BE SATISFACTORY FOR THE TEAM VISIT, DEPENDING ON THE GOS DESIRE. HOWEVER, THIS

VISIT SHOULD NOT BE AT THE SAME TIME AS THAT BEING SUGGESTED FOR MOD GUTIERREZ MELLADO (SEE STATE 165212, 291321Z JUNE 78).

4. FORMAL U.S. RESPONSE TO THE SPANISH MEMORANDUM PRESENTED ON 14 JUNE 1978 WILL BE FORWARDED BY SEPTTEL THE LATTER PART OF JULY.

5. DEFENSE CONCURS. VANCE

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